



CENTER FOR BIOLOGICAL DIVERSITY

May 19, 2026

BY CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Lee Zeldin, Administrator
Environmental Protection Agency
Office of the Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Notice of Intent to Sue Over Failure to Respond to Clean Air Act Title V Petition Over Phillips 66's Denver Petroleum Products Terminal, Adams County, Colorado

Dear Administrator Zeldin:

The Center for Biological Diversity intends to sue you and the Environmental Protection Agency ("EPA") for your failure to respond within 60 days to the petition to object to the Clean Air Act Title V Operating Permit Modification issued by the Colorado Air Pollution Control Division ("Division") authorizing Phillips 66 Pipeline to modify and operate its Denver Petroleum Products Terminal located in Adams County, Colorado.

We intend to bring a suit 60 days from the date of this letter, or shortly thereafter, under section 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2), against you for your failure to perform a non-discretionary duty outlined in 42 U.S.C. § 7661d(b)(2).

The Center for Biological Diversity is a nonprofit, 501(c)(3) conservation organization. The Center's mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands and waters, and public health through science, policy, and environmental law. The Center has more than 89,000 members, many of whom are harmed by your failure to perform a mandatory duty under the Clean Air Act.

The Division is the agency responsible for issuing Title V operating permits in Colorado. The Division approved a minor modification to Phillips 66's Title V Operating Permit for the Denver Terminal on August 1, 2025. The minor modification allowed Phillips 66 to remove air pollution controls intended to curtail harmful volatile organic compound ("VOC") pollution. VOCs pose serious health risks and also react with sunlight to form ground-level ozone, a poisonous gas for which the EPA has established

national ambient air quality standards. Ozone is a significant problem in the Denver Metro area of Colorado.

In approving the minor modification, the Division provided no public notice or opportunity for public comment. Prior to approving the minor modification, the Division provided a draft of the modification to the EPA for its legally required 45-day review. The EPA did not object to the issuance of a final permit during this 45-day review period. Pursuant to 42 U.S.C. § 7661d(b)(2), the Center for Biological Diversity timely submitted a petition to the Administrator of the EPA to object to the minor modification of the Denver Terminal on September 19, 2025. The petition challenged the Division's approval of the minor modification over its failure to comply with the Clean Air Act and minor modification procedures under Title V.

The Clean Air Act, at 42 U.S.C. § 7661d(b)(2), provides that "the administrator shall grant or deny such [Title V] petition within 60 days after the petition is filed." Responding to Title V petitions pursuant to 42 U.S.C. § 7661d(b)(2) is a non-discretionary duty under the Clean Air Act. The Center's Title V petition was filed September 19, 2025, via the email address titlevpetitions@epa.gov. EPA therefore had until November 3, 2025 to grant or deny the Title V petition. EPA neither granted nor denied the Title V petition by this date and/or by the date of this letter and therefore EPA is in violation of 42 U.S.C. § 7661d(b)(2). EPA is responsible for the violation of this non-discretionary duty by not responding to the Center for Biological Diversity's petition within 60 days.

In keeping with the requirements of federal regulations, you are hereby notified that the full names and addresses of the persons providing this notice are:

Center for Biological Diversity
378 North Main Ave
Tucson, AZ 85701

If you wish to discuss this matter, please contact me at the information below.

Sincerely,


Jeremy Nichols
Senior Advocate
Center for Biological Diversity
(303) 437-7663
jnichols@biologicaldiversity.org